HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.34148 of 1998

Dated 12th day of June, 2007

Between:

Nagella Lakshmamma ..
Petitioner

And

The Govt. of A.P., rep. by its
Secretary, Department of Revenue,
Secretariat, Hyderabad
and five others ..
Respondents

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O R D E R:

This writ petition is filed seeking a mandamus to declare G.O.Ms.No.807, dated 21.10.1998 issued by the 1st respondent-Government, as arbitrary and illegal, and consequently direct the respondents not to interfere with the peaceful possession and enjoyment of the petitioner's land of an extent of Ac.1.68 cents in S.No.222/1 situated in Daggavolu village.

The petitioner asserts that originally an extent of Ac.1.68 cents of land in S.No.222/1 situated in Daggavolu village, Dakkili Mandal, Nellore District was assigned to one M.Subrahmanyam, who is none other than her husband. However, as Subhrahmanyam was neither in actual possession nor cultivating the land in question, the Mandal Revenue Officer, after issuing Show Cause Notice to him, cancelled the assignment. Thereafter, the 3rd respondent-Sub-Collector granted lease patta in favour of the petitioner on 6.4.1992 and since then she has been in possession and enjoyment of it. However, the 4th and 6th respondents, questioning the grant of lease, preferred an appeal before the 2nd respondent-Joint Collector, who by his order dated 28.3.1993, dismissed the appeal confirming the orders of the 3rd respondent. Now, the grievance of the petitioner is that when the respondents 4 to 6, being aggrieved by the order of the Joint Collector, filed a revision, the 1st respondent-Government, vide its G.O.Ms.No.807 dated 21.10.1998, set aside the orders of the 2nd and 3rd respondents holding that the respondents 4 to 6 are entitled to have possession of the land in question.

Heard the learned counsel for the petitioner and the learned Government Pleader for Assignment. Though notices have been

served on respondents 4 to 6, they have not chosen to put in their appearance either in person or through their counsel. Perused the material placed on record.

From a perusal of G.O.Ms.No.807 passed by the 1st respondent, it only reveals that the respondents 4 to 6 are stated to be in actual possession and enjoyment of the land, but it does not give any valid and convincing reasons as to why and how the petitioner is not entitled to the assignment. The plea set up by the respondents 4 to 6 is that originally Subrahmanyam was in possession of the land in question and he relinquished his rights over the land in their favour. In fact, before the authorities, particularly the 1st respondent, no documentary evidence was produced by the respondents 4 to 6 establishing the fact that there was a relinquishment deed and how they came into the possession of the land in question. Here, it is to be noted that only after cancellation of the patta which was granted in favour of the petitioner's husband, the petitioner was granted lease patta as early as in the year 1992. Hence, this Court is of the view that the petitioner is entitled to have possession over the land in question.

In the result, the writ petition is allowed and the G.O.Ms.No.807 dated 21.10.1998 issued by the 1st respondent is set aside. No costs.

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12.06.2007

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